

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-48  
CHILD SUPPORT REQUIREMENTS**

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**1240-1-48-.01 CHILD SUPPORT REQUIREMENTS.**

- (1) Introduction. The Office of Child Support Services is the agency with responsibility for the administration of the requirements under Title IV-D of the Social Security Act to locate absent parents, establish paternity, collect support payments, and recover any overpayments due to the family's retention of assigned support.
- (2) Support is defined as court-ordered or voluntary money payments made to or on behalf of, any member of a Families First assistance unit by an absent parent (legally recognized parent, or natural parent who admits paternity). Such support is assigned to the state, pursuant to state law, as a condition of Families First eligibility. Spousal support is also assigned if it was ordered at the time of the child support order by a court.
- (3) Conditions of Families First Eligibility Relating to Child Support. As a condition of Families First eligibility for him/herself, each applicant for or recipient of aid on behalf of a child must:
  - (a) Assign to the state any rights to support from any other person that the A/R may have in behalf of any member of the assistance group. This assignment includes past support rights which have accrued at the time of such assignment. There is no waiver of the assignment requirement.
  - (b) Cooperate with the state in:
    1. Identifying and locating the absent parent(s);
    2. Establishing paternity if necessary;
    3. Obtaining support payments.
    4. Identify any third party that may be liable for care and services available under the state's Title XIX state plan in behalf of the applicant/recipient or any other family member for whom the A/R is applying for or receiving assistance.
  - (c) As an element of cooperation, turn over to the state any support paid directly to the applicant/recipient, whether voluntary or court-ordered.
- (4) Summary of the Treatment of Support Payments.
  - (a) When an assignment is in effect on a Families First case, any support paid to or on behalf of the assistance group members must go to the Department to be disbursed in accordance with federal regulations.

(Rule 1240-1-48-.01, continued)

- (b) Support may or may not be court ordered. Prior to the establishment of an order of support, the actual monthly amount of voluntary support, less the child support bonus, is tested against the grant or appropriate need standard to (re)determine eligibility. In case of court ordered support, the court ordered amount, less the child support bonus, is tested against the appropriate need standard. Any excess amount paid over the court ordered amount of support by the absent parent is used by Child Support to reimburse arrearages owed the state and federal governments for the Families First payment. If there are no arrearages, the overage is credited to “futures” to be used for reimbursement purposes as needed.
  - (c) If the support payment, less the child support bonus, is insufficient to meet the family’s needs by DHS grant standards, the family receives the full Families First grant to which it is entitled, disregarding the support. The support payment is used to reimburse state and federal Families First funds expended on the family.
  - (d) If the support payments do meet the needs of the family (or children), the Families First case must be terminated.
- (5) Cases Subject to Support Procedures. Any Families First case in which eligibility is based upon absence of a parent is subject to child support requirements and will be referred to Child Support upon approval of the Families First case and at the time of an addition of a child(ren) to the assistance group. Cases in which the grant is less than ten dollars (\$10.00) must also be referred to IV-D. Referrals for the absent parent(s) of a minor parent who is the caretaker of her Families First case or a minor parent who is a dependent child in a Families First case are also required. The following types of Families First AGs are exempt from support processes and are not referred to the IV-D agency even where eligibility is based on absence:
- (a) “Caretaker Only” cases in which the needy child is an SSI recipient.
  - (b) Absence due to court ordered public service in lieu of incarceration.
  - (c) Single parent adoptions.
  - (d) Assistance units consisting of a pregnant woman only.

**Authority:** T.C.A. §§4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-3-152, 71-3-153 and 71-3-154; 71-3-158(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 608(a)(2) and (3), 42 U.S.C. 608(a)(6)(A), 42 U.S.C. § 608(b)(3), 42 U.S.C. § 609(a)(5) and (14) and 42 U.S.C. §§ 654 and 657; Public Acts of 1996, Chapter 950, and 45 CFR 232; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007.

#### **1240-1-48-.02 REFERRALS BY IV-A TO THE IV-D AGENCY.**

- (1) Upon approval of Families First benefits for a case which is subject to child support procedures, pertinent information will be referred to the IV-D agency where it will be used in locating the absent parent(s), establishing paternity, obtaining and enforcing support orders, and/or redirecting support payments to this department.

**Authority:** T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 232.2. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-48-.03 ASSIGNMENT OF SUPPORT RIGHTS.** As a condition of eligibility, the Families First applicant/recipient is deemed to have assigned to the state any rights to support, on behalf of all members of the Families First assistance group, and which have accrued at the time the assignment is made. The assignment

(Rule 1240-1-48-.03, continued)

requirement cannot be waived. If a client refuses to assign support rights, Families First assistance will be denied or closed.

- (1) Notice to the A/R of the Assignment Requirement. A written and verbal explanation of this eligibility requirement and the sanctions for refusal must be given to each Families First applicant to whom the requirement applies.
- (2) Refusal to Assign Support Rights.
  - (a) If an applicant/recipient refuses to assign support rights, Families First assistance will be denied or closed.

**Authority:** T.C.A. §§4-5-201 et seq., 71-1-105, 71-3-124, Public Acts of 1996, Chapter 950, and 45 CFR 232.11; §1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-48-.04 COOPERATION IN CHILD SUPPORT ACTIVITIES.** Cooperation in obtaining support and establishing paternity is a condition of Families First eligibility for each applicant/recipient unless good cause for refusal to cooperate is established. The determination of whether a client has refused to cooperate is a Child Support Enforcement function. The determination of whether good cause exists for a waiver of the cooperation requirement is the responsibility of the IV-A agency.

- (1) Cooperation Requirements. Each A/R is required to cooperate by engaging in any activity or providing information necessary for child support enforcement, including but not limited to the following:
  - (a) Assisting in identifying and locating the absent parent of each child in the assistance group;
  - (b) Assisting in the establishment of paternity for each Families First child for whom this service is appropriate;
  - (c) Assisting in obtaining support for each member of the assistance group;
  - (d) Appearing for scheduled interviews as necessary to provide relevant verbal or written information or documentary evidence;
  - (e) Appearing as a witness in court or other hearings or proceedings, if necessary;
  - (f) Providing information, or attesting to lack of information, under penalty of perjury;
  - (g) After assigning support rights, turning over to DHS any and all support payments which are covered by the assignment and are received directly by the A/R either from the absent parent or through a court or other third party.
- (2) Notice to the Applicant/Recipient. At application, a written and verbal explanation of the requirement for cooperation with child support activities and the penalties for refusal to cooperate will be provided in addition to information regarding the client's right to claim good cause for refusal to cooperate. If the client claims good cause for non-cooperation or requests further clarification, he/she shall be given a further written notice describing the circumstances and evidence necessary for a good cause determination.
  - (a) Acknowledgment of Notice
    1. The client's signature on the Department's application for assistance acknowledges that he/she understands:

(Rule 1240-1-48-.04, continued)

- (i) that support rights are assigned to the state;
  - (ii) any support payments received by the client after approval of the Families First payment must be turned over to DHS; and
  - (iii) how to forward such payments to DHS.
- 2. Reserved for future use.
- (3) Refusal to cooperate.
  - (a) It is the responsibility of Child Support Enforcement to determine if a client has failed or refused to cooperate.
  - (b) Reasonable judgment will be exercised in determining whether there has been willful non-cooperation or extenuating circumstances.
  - (c) If the client has refused to cooperate, the Department will apply the sanctions to the case (unless there is good cause for the lack of cooperation) and notify the client of the action.
  - (d) Failure to cooperate (without good cause) and the resultant application of sanctions to the case do not preclude support actions on the case by the IV-D agency.

**Authority:** T.C.A. §§4-5-201 et seq., 71-1-105, 71-3-124, 42 USC § 654(29), 42 USC § 1315(a), and PL 104-193 §301(a). **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002.

**1240-1-48-.05 GOOD CAUSE FOR REFUSAL TO COOPERATE.** A client claiming good cause for refusal to cooperate has the burden of establishing the existence of a good cause circumstance.

- (1) Client Requirements. To establish good cause, the client will be required to:
  - (a) Specify the circumstances which he/she believes provide sufficient good cause for non-cooperation;
  - (b) Substantiate the good cause circumstances; and
  - (c) If requested, provide sufficient information to permit an investigation.
- (2) Good Cause Circumstances. Only when one of the following circumstances is substantiated will it be determined that the client's cooperation is against the best interests of the child and there is good cause for refusal to cooperate:
  - (a) The client's cooperation is reasonably anticipated to result in physical or serious emotional harm to the child for whom support is to be sought; or
  - (b) The client's cooperation is reasonably anticipated to result in physical or serious emotional harm of such nature or degree that it reduces his/her capacity to provide adequate care for the child; or
  - (c) Proceedings to establish paternity or collect support in the particular case would be detrimental to the child because the child was conceived as a result of incest or forcible rape; or

(Rule 1240-1-48-.05, continued)

- (d) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or
  - (e) The client is currently (for a period of not more than three months) being assisted by a public or licensed private social agency to decide whether to keep the child or relinquish for adoption.
- (3) Proof of Good Cause Claims.
- (a) The decision of good cause will be based upon evidence supplied by the client within 20 days after the claim is made. Only in exceptional situations, and with supervisory approval, will the Department grant a client's request for an additional period of time. Otherwise, the claim will be denied.
  - (b) The determination may be based upon an investigation by the Department in certain limited circumstances, such as in cases of anticipated physical harm when the A/R states there is no documentary evidence, and in cases where the evidence submitted by the A/R is questionable and so requires further verification and/or investigation.
  - (c) Corroborative Evidence.
    - 1. Documentary Evidence. Evidence submitted by the client will be carefully evaluated to determine whether it actually verifies the claim. The following types of evidence may be used to substantiate a good cause claim:
      - (i) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;
      - (ii) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
      - (iii) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the absent parent might inflict physical or emotional harm on the child or caretaker relative if cooperation is required;
      - (iv) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought, or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child.
      - (v) A written statement from a public or licensed private social agency that the A/R is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption; and
      - (vi) Notarized statements from individuals other than the A/R with knowledge of the circumstances on which the good cause claim is based.
    - 2. Emotional Harm Documentation. For every good cause determination based in whole or in part upon anticipated emotional harm to the child or caretaker, the following points will be considered:
      - (i) The present emotional state of the individual;
      - (ii) The emotional health history of the individual;

(Rule 1240-1-48-.05, continued)

- (iii) The intensity and probable duration of the emotional impairment;
  - (iv) The degree of cooperation to be required; and
  - (v) The extent to which the child will be involved in the paternity establishment or support enforcement activity.
- 3. Securing Documents. The client has the primary responsibility for obtaining any necessary documents. However, the Department will secure information that is available to it through automated sources or when it is more reasonable for the agency to secure the information.
- 4. Additional Information Required. If an examination of the evidence indicates that additional information is necessary in order to make a decision, the Department will promptly notify the client, specifying the type of document which is needed.
- 5. Documentary Evidence Not Available - Physical Harm. An investigation will be conducted when a good cause claim of anticipated physical harm appears credible without substantiating evidence and such evidence is not available.
- 6. Documentary Evidence Insufficient for Determination. If the A/R's statement and the evidence submitted do not provide a sufficient basis for making a decision, the Department may further verify the claim and, where necessary, conduct an investigation. The investigation may include contact of the absent parent if necessary for a determination. Prior to such contact, however, the client will be notified so that he/she may:
  - (i) Present additional corroborative evidence to make the contact unnecessary;
  - (ii) Withdraw the application for assistance or have the case closed; or
  - (iii) Have the good cause claim denied.
- (4) Granting or Continuation of Assistance During Good Cause Determination. If the client has complied with the requirement for providing corroborative evidence, assistance shall not be denied, delayed, or discontinued pending the determination of whether or not good cause for refusal to cooperate exists.
- (5) Decisions on Good Cause Claims.
  - (a) Time Standards for Processing Claim.
    - 1. A final decision on each good cause claim must be made within 45 days of the date the claim is made.
    - 2. The time standard may be exceeded only if:
      - (i) information required to verify and/or investigate the claim could not be obtained within the time standard, or
      - (ii) the client did not provide corroborative evidence within the 20 day period specified in (3)(a) above and supervisory approval for the extension has been granted.

(Rule 1240-1-48-.05, continued)

3. The client must be advised promptly in writing of the decision and the basis for the determination.
- (b) Approval of Good Cause Claim. If the evidence and/or the investigation substantiate that good cause exists, the Department will notify the client, advising him/her that the Office of Child Support Services will not proceed with any activities to establish paternity and/or secure support in relation to the particular absent parent and child(ren) as long as the good cause circumstances exist.
- (c) Periodic Review of Approved Good Cause Claims. The decision will be reviewed at each eligibility redetermination only if the original decision was based on a circumstance that is subject to change.
- (d) Denial of Good Cause Claim.
  1. A good cause claim may be denied if:
    - (i) the client has not furnished evidence within 20 days and has not requested assistance in obtaining the evidence nor requested and been granted an extension of the time limit;
    - (ii) the evidence submitted does not substantiate the claim and the client has not submitted additional evidence which does corroborate it;
    - (iii) the client has not provided information necessary for an agency investigation if this is needed; or
    - (iv) documentary evidence or agency investigation substantiate that the claim is not valid.
  2. If the decision is that good cause does not exist, the client will be notified of the decision and given an opportunity to cooperate, withdraw the application for assistance, or have the case closed. In the event of continued refusal to cooperate, the IV-D sanctions will be applied to the case.
  3. A redetermination of a previously denied claim of good cause will be made only if there is new documentary evidence or information provided which indicates a need for further action or investigation. A client who has been penalized for failure to cooperate after his/her good cause claim was denied must remain under penalty unless good cause is later substantiated (or the client demonstrates willingness to cooperate.)
- (6) Coordination with the IV-D Agency. The IV-D agency will be kept advised of good cause activities on approved Families First cases.

**Authority:** T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 232.40 through 232.47. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

#### **1240-1-48-.06 CHILD SUPPORT SANCTIONS.**

- (1) If a caretaker relative fails or refuses to comply with either the assignment requirement or, without good cause, the cooperation requirement, establishment of paternity, and establishing or modifying a child support order, the assistance group will be ineligible for Families First until compliance is met. Cooperation is required by all caretakers regardless of whether they are included in the assistance group.

(Rule 1240-1-48-.06, continued)

- (a) Reserved for future use.
- (2) Notice to the A/R. The application of sanctions to a case for refusal to assign support rights or to cooperate in support activities will be accompanied by advance notice.
- (3) Reserved for future use.
- (4) Discontinuance of Sanctions. Sanctions for failure or refusal to comply with the child support requirements will be removed if the client demonstrates willingness to comply.
  - (a) If, upon reapplying for Families First the previously non-compliant caretaker agrees to assign support rights and to cooperate fully with all child support requirements, compliance will be considered to have occurred, and will continue to be assumed until he/she demonstrates otherwise.

**Authority:** T.C.A. §§4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-3-152, 71-3-153 and 71-3-154; 71-3-158(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 608(a)(2) and (3), 42 U.S.C. 608(a)(6)(A), 42 U.S.C. § 608(b)(3), 42 U.S.C. § 609(a)(5) and (14) and 42 U.S.C. §§ 654 and 657; Public Acts of 1996, Chapter 950, and 45 CFR 232.12, §1115 of the Social Security Act; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007.

#### **1240-1-48-.07 BUDGETING PROCEDURES.**

- (1) Applications.
  - (a) Support from an absent parent is considered as currently available income in the initial determination of eligibility. Support payments, less the child support “bonus”, are used to test eligibility. If the family is eligible, a grant is approved excluding the support.
  - (b) Support received during the period the application is pending may be retained by the family and counted as income in determining the amount of the initial payment due the family. The client must forward support payments to the state beginning with the first payment received after being notified of the Families First approval. Any support received and retained after approval is subject to IV-D recovery.
- (2) Active cases. For active Families First cases not under sanctions, the Families First payment is computed without regard to support payments except in the following types of cases:
  - (a) If the recipient or IV-D reports (or the worker discovers) that support is being received directly and retained:
    - 1. If the recipient refuses to agree to submit any subsequent support payments to IV-D, the worker must apply sanctions by closing the case.
    - 2. If the A/R agrees to submit future support payments to IV-D, no action will be taken by the IV-A worker unless the amount of support causes ineligibility, or IV-D notifies IV-A that the A/R has failed to follow through with forwarding the support or has refused to cooperate in any way with recovery efforts.
  - (b) When support collections plus other income equal or exceed the Consolidated Need Standard (CNS) for the family, IV-D will notify IV-A to redetermine eligibility for Families First. Such redetermination must be completed within 30 days of the notification of the collection. IV-A must then notify IV-D of the result. Budget calculations will be based on the CNS minus the



(Rule 1240-1-48-.07, continued)

voluntary/court ordered amount of the support collected after deduction of the child support bonus, plus other net countable income. The total amount of any retained voluntary support minus the child support bonus is counted in this redetermination. The ordered amount or the actual amount of support collected, whichever is less, is counted in this redetermination when the retained support is court ordered. If there is a deficit, assistance should continue. If the Department terminates the grant, only the excess of the court ordered amount of the collection over the grant amount will be paid to the family from the collection causing ineligibility.

- (c) When a current month's collection exceeds the amount required to pay the bonus and to reimburse the federal and state shares for the Families First grant for that month, the excess up to the court ordered amount must be distributed to the family by IV-D. Such excess payments are counted as income in the Families First budget for the month they are received by the family.

**Authority:** T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 232.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

#### **1240-1-48-.08 TREATMENT OF SUPPORT PAYMENTS.**

- (1) When an assignment is in effect on a Families First case, any support paid on behalf of the assistance group members must go to the state to be disbursed by the IV-D agency in accordance with federal regulations.
- (2) If the payments are insufficient to meet the AG's needs by DHS standards, the AG receives the full grant to which it is entitled, disregarding the support, which is used to reimburse state and federal Families First funds expended on the family.
- (3) If the payments do meet the needs of the AG, the Families First grant must be terminated and the current support payments will then go to the AG. Should payments not continue at a level sufficient to meet the AG's needs, the family may reapply for Families First.
- (4) When support is collected by the IV-D agency in behalf of an AG receiving Families First cash assistance, the collected amount of support will be paid to the AG in an amount up to the lesser of the collection or the AG's unmet need.
  - (a) Unmet need is determined by subtracting the following from the AG's consolidated need standard:
    - 1. the grant amount paid to the AG in the month the collection is received by the IV-D agency; and
    - 2. the income counted in the budget to determine the amount of the AG's grant in the month the collection is received by the IV-D agency.

**Authority:** T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 232.20 through 232.21. **Administrative History:** Original rule filed December 2, 1996; effective 15, 1997.